

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #4	CCRB Case #: 201901925	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 01/04/2019 8:00 AM, Friday, 01/04/2019 11:15 AM	Location of Incident: Union Square West and East 16th Street and Union Square West and East 14th Street	Precinct: 13	18 Mo. SOL 7/4/2020	EO SOL 2/18/2021	
Date/Time CV Reported Tue, 03/05/2019 10:35 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/05/2019 10:35 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Cangelosi	04586	950152	013 PCT
2. SGT Elena Stojanovski	02188	940773	013 PCT
3. POM Mateusz Hader	09149	963561	013 PCT
4. POM Alexander Mengani	20921	958925	013 PCT
5. SGT Ivan Nikishin	04811	952054	013 PCT
6. POM Todd Craven	27626	928124	013 PCT
7. POM Joseph Carlucci	13530	943051	013 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Fainer	21974	962393	013 PCT
2. POM Joseph Sgroi	22374	962795	013 PCT
3. POM Jon Rymer	30312	954307	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Elena Stojanovski	Abuse: At Union Square West and East 16th Street in Manhattan, Sergeant Elena Stojanovski forcibly removed § 87(2)(b) to the hospital.	
B.POM Michael Cangelosi	Abuse: At Union Square West and East 16th Street in Manhattan, Police Officer Michael Cangelosi searched § 87(2)(b)	
C.SGT Ivan Nikishin	Force: At Union Square West and East 14th Street in Manhattan, Sergeant Ivan Nikishin used physical force against § 87(2)(b)	
D.POM Michael Cangelosi	Force: At Union Square West and East 14th Street in Manhattan, Police Officer Michael Cangelosi used physical force against § 87(2)(b)	
E.POM Mateusz Hader	Force: At Union Square West and East 14th Street in Manhattan, Police Officer Mateusz Hader used physical force against § 87(2)(b)	
F.POM Alexander Mengani	Force: At Union Square West and East 14th Street in Manhattan, Police Officer Alexander Mengani used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.POM Joseph Carlucci	Force: At Union Square West and East 14th Street in Manhattan, Police Officer Joseph Carlucci used physical force against § 87(2)(b)	
H.POM Todd Craven	Force: At Union Square West and East 14th Street in Manhattan, Police Officer Todd Craven used physical force against § 87(2)(b)	
I.SGT Ivan Nikishin	Abuse: At Union Square West and East 14th Street in Manhattan, Sergeant Ivan Nikishin forcibly removed § 87(2)(b) to the hospital.	

Case Summary

On March 5, 2019, § 87(2)(b) called the CCRB and filed this complaint.

On January 4, 2019, at approximately 8:25 AM, at Union Square West and East 16th Street in Manhattan, Sergeant Elena Stojanovski and Police Officer Michael Cangelosi, both of the 13th Precinct, responded to an emotionally disturbed person (EDP) case involving § 87(2)(b). Sgt. Stojanovski ordered the removal of § 87(2)(b) to the hospital (**Allegation A - Abuse of Authority - § 87(2)(g)**). PO Cangelosi allegedly searched § 87(2)(b)'s belongings while waiting for the ambulance to arrive (**Allegation B – Abuse of Authority - § 87(2)(g)**).

Later that day, at approximately 11:15 AM, after being released from the hospital, § 87(2)(b) returned to Union Square Park. At Union Square West and East 14th Street in Manhattan, a group of officers including Sergeant Ivan Nikishin, and Police Officers Michael Cangelosi, Mateusz Hader, Alexander Mengani, Joseph Carlucci, and Todd Craven, all of the 13th Precinct, approached § 87(2)(b). The officers took § 87(2)(b) to the ground and placed him in handcuffs (**Allegation C to H – Force - § 87(2)(g)**). Sgt. Nikishin subsequently ordered the removal of § 87(2)(b) to the hospital (**Allegation I – Abuse of Authority - § 87(2)(g)**).

No arrests were made, or summons issued as a result of this incident.

The CCRB received four Body Worn Camera (BWC) videos of the first incident (BR 07-10) and six BWC videos of the second incident (BR 18-23). Additionally, the CCRB received three videos from § 87(2)(b) which were taken by him on his cell phone (BR 14-16).

Findings and Recommendations

Allegation (A) Abuse of Authority: At Union Square West and East 16th Street in Manhattan, Sergeant Elena Stojanovski forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) stated that he was in his hammock that was hung up between a tree and a traffic light at Union Square West and East 16th Street in Manhattan (BR 01). Police Officer Kevin Fainer and Police Officer Joseph Sgroi approached and instructed § 87(2)(b) to take down his hammock and leave the location. § 87(2)(b) refused to take down the hammock. Sgt. Stojanovski and PO Cangelosi arrived at the scene. § 87(2)(b) got out of his hammock. PO Fainer then handcuffed § 87(2)(b). PO Cangelosi told § 87(2)(b) that he was going to be taken to the hospital. Approximately two minutes later, an ambulance arrived with two EMTs. § 87(2)(b) told the officers and EMTs that he did not want to be taken against his will. § 87(2)(b) refused to provide the EMTs any of his personal information. § 87(2)(b) was subsequently removed to the hospital.

PO Fainer (BR 02) stated that he and PO Sgroi were driving when they observed § 87(2)(b)'s hammock affixed to two light posts and blocking pedestrian traffic. PO Fainer and PO Sgroi approached § 87(2)(b) and observed that he was asleep and was not wearing a shirt. The hammock smelled of feces and urine, but PO Fainer did not see urine or feces on the hammock. PO Fainer and PO Sgroi woke § 87(2)(b) up and instructed him to remove his hammock. § 87(2)(b) yelled at the officers and refused to exit the hammock. PO Fainer did not see any bottles of urine, but stated that § 87(2)(b) is known to carry bottles of urine. PO Fainer requested Sgt. Stojanovski to the scene. PO Fainer handcuffed § 87(2)(b) after Sgt. Stojanovski arrived. At some point, PO Fainer did not know when, Emergency Medical Service (EMS) was called. PO Fainer did not know which officer called EMS, nor did he know if Sgt. Stojanovski instructed any officer to call EMS.

PO Fainer (BR 02) and PO Cangelosi (BR 04) stated that EMS was called because they had determined § 87(2)(b) was an EDP and because there was a “Cold Weather Emergency” (temperature is below thirty-two degrees) in effect. § 87(2)(b) was found without clothes on, in unsafe weather conditions, and he refused to put on clothing. This led the officers to believe that § 87(2)(b) could not care for himself. The officers stated that § 87(2)(b) was considered an EDP because he was rambling, he was not coherent, and because they each had prior interactions with § 87(2)(b) and had previously classified him as an EDP. PO Fainer and PO Cangelosi did

not hear § 87(2)(b) make any statements threatening to harm himself or others.

Sgt. Stojanovski (BR 03) stated that she was requested to the scene for an emotionally disturbed male who refused to cooperate with officers' instructions. The weather was chilly. Sgt. Stojanovski believed there might have been a cold weather advisory in effect. Sgt. Stojanovski believed § 87(2)(b) wore cargo shorts and jacket. § 87(2)(b) was acting "belligerent," rambling on, and going off on tirades, but she did not recall what he said. When asked whether § 87(2)(b) did anything that classified him as an emotionally disturbed person besides refusing to take down his hammock, Sgt. Stojanovski explained that "it had to do with things he said and knowledge of prior interactions" with § 87(2)(b). Sgt. Stojanovski added that, on some prior occasions, § 87(2)(b) was compliant when asked to leave and other times he refused to leave. She also stated that § 87(2)(b) had refused to be placed into a shelter on prior occasions. Sgt. Stojanovski did not recall if § 87(2)(b) made any statements of self-harm or threatening statements towards others. She did not recall whether § 87(2)(b) was taken to the hospital because of the cold weather advisory.

EMT § 87(2)(b) (BR 05) stated that § 87(2)(b) did not want to speak with the EMTs. § 87(2)(b) did not respond to any questions asked by the EMTs, which prevented them from making an assessment at the scene. Because EMT § 87(2)(b) was not able to make a determination of § 87(2)(b)'s condition, and she did not know what happened prior to her arrival, she removed § 87(2)(b) based on Sgt. Stojanovski's instruction. EMT § 87(2)(b) did not remember the contents of her conversation with Sgt. Stojanovski prior to § 87(2)(b)'s removal. EMT § 87(2)(b) did not hear § 87(2)(b) make any statements threatening himself or others. EMT § 87(2)(b) was unaware of any cold weather emergency procedures that were in effect during the incident.

EMT Calidonio was not interviewed because he is no longer employed at the hospital involved in the incident. The investigation contacted him by telephone, but he did not recall the incident (BR 06).

PO Cangelosi's BWC footage (BR 07) begins with § 87(2)(b) being handcuffed by PO Fainer. Throughout the duration of the video, § 87(2)(b) remains sitting on his hammock while in handcuffs. § 87(2)(b) remains calm, does not raise his voice, and is coherent while engaging in conversation with the officers. § 87(2)(b) does not make any statements threatening himself or others throughout the footage. At 6:53, § 87(2)(b) is pictured fully clothed; wearing a shirt, sweater, pants, shoes, and a hat. Between 13:00 and 13:30, PO Cangelosi says that it is below 32 degrees, and that there is a winter weather advisory in effect, and then immediately follows up by checking the temperature and saying, "Right now it's, oh it's thirty-six."

The investigation determined that the weather in Manhattan on January 4, 2019, ranged between forty-six to thirty-five degrees (BR 11).

Aided Report § 87(2)(b) (BR 29), filed by PO Fainer, stated that § 87(2)(b) was found sleeping in a hammock without a shirt on, in unsafe conditions. It stated that he refused to put on clothing and refused to take down his hammock, which was blocking pedestrian traffic.

As per Patrol Guide Procedure 221-13 (BR 12), an Emotionally Disturbed Person (EDP) is a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in a serious injury to himself or others. It requires that members of service take into protective custody and remove to the hospital any individual that a member of service reasonably believes is an Emotionally Disturbed Person.

As per Patrol Guide Procedure 214-06 (BR 13) a "Cold Weather Emergency" is declared by the Department of Health and Mental Hygiene when the temperature reaches or falls below 32 degrees Fahrenheit.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (B) Abuse of Authority: At Union Square West and East 16th Street in Manhattan, Police Officer Michael Cangelosi searched § 87(2)(b)

§ 87(2)(b) stated that while waiting for the ambulance, PO Cangelosi reached into the pockets of the hammock, located on the underside, and removed § 87(2)(b)'s possessions (BR 01).

From 0:15 to 0:45 of PO Cangelosi's BWC footage (BR 07), PO Cangelosi is seen picking up a stack of cards that were resting on top of the hammock in plain view and placing them into § 87(2)(b)'s jacket pocket. PO Cangelosi does not search any of § 87(2)(b)'s pockets nor any hammock pockets at any point.

PO Cangelosi (BR 04) denied searching any pockets. Sgt. Stojanovski (BR 03), and PO Fainer (BR 02) both stated that they did not see PO Cangelosi search any pockets.

§ 87(2)(b), § 87(2)(g)

Allegation (C) Force: At Union Square West and East 14th Street in Manhattan, Sergeant Ivan Nikishin used physical force against § 87(2)(b)

Allegation (D) Force: At Union Square West and East 14th Street in Manhattan, Police Officer Michael Cangelosi used physical force against § 87(2)(b)

Allegation (E) Force: At Union Square West and East 14th Street in Manhattan, Police Officer Mateusz Hader used physical force against § 87(2)(b)

Allegation (F) Force: At Union Square West and East 14th Street in Manhattan, Police Officer Alexander Mengani used physical force against § 87(2)(b)

Allegation (G) Force: At Union Square West and East 14th Street in Manhattan, Police Officer Joseph Carlucci used physical force against § 87(2)(b)

Allegation (H) Force: At Union Square West and East 14th Street in Manhattan, Police Officer Todd Craven used physical force against § 87(2)(b)

Allegation (I) Abuse of Authority: At Union Square West and East 14th Street in Manhattan, Sergeant Ivan Nikishin forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) stated that after he was released from the hospital, he returned to Union Square Park to speak with the Parks Department about his missing possessions (BR 01). Upon entering the Parks Department office, § 87(2)(b) learned that they did not have any of his possessions. § 87(2)(b) became upset, sat down on the floor in a fetal position, and began to cry and yell. § 87(2)(b) later learned that the Park Department office he entered was restricted from the public.

Officers were called to the scene and they escorted him out of the office. § 87(2)(b) provided his identification to an officer and was then notified that he was going to be detained. § 87(2)(b) stated that a group of officers attempted to handcuff him, and he moved his shoulders to

avoid being placed in handcuffs. The officers then tackled him to the ground and kicked him multiple times on his legs and back. § 87(2)(b) did not know which officers kicked him. § 87(2)(b) stated that he wiggled his shoulders to avoid being placed in handcuffs. § 87(2)(b) was eventually handcuffed and removed to the hospital.

At 26:20 of § 87(2)(b)'s cellphone recording (BR 14), § 87(2)(b) is in the Parks Department office, and is heard hitting parts of his body against an unknown object and yelling.

Event no. § 87(2)(b) (BR 17) documents that at least two 911 callers reported that § 87(2)(b) was yelling, banging his head against the ground, and injuring himself.

From 0:23 to 0:45 of PO Alexander Mengani's body worn camera footage (BR 18) § 87(2)(b) pulls his arm away from the officers trying to handcuff him and is taken to the ground. Sgt. Nikishin, PO Cangelosi, PO Hader, PO Mengani, PO Carlucci, and PO Craven were all involved in taking § 87(2)(b) down to the ground and restraining him to put handcuffs on him. At 1:35, § 87(2)(b) extends his arms, as the officers attempt to handcuff him. From 1:35 to 3:52, § 87(2)(b) is being restrained and held down by the officers. At 3:54, § 87(2)(b) is handcuffed, helped up, placed on a stretcher, and then taken to the ambulance to be removed to the hospital.

There are five additional body worn camera videos (BR 19-23) that provide different angles of the incident. At no point is any officer seen kicking § 87(2)(b) anywhere in the body. PO Cangelosi corroborated what is seen in the BWC footage.

The Aided Report (BR 24) and the Prehospital Care Report (BR 25), prepared when § 87(2)(b) was taken to the hospital, confirm that § 87(2)(b) had a laceration on the right side of his face and was injured as a result of being tackled to the ground.

As per Patrol Guide Procedure 221-02 (BR 26) officers must apply no more than the reasonable force necessary to gain control, assessing the situation continually and adjusting the use of force as necessary.

As per Patrol Guide Procedure 221-13 (BR 12) an Emotionally Disturbed Person (EDP) is a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in a serious injury to himself or others. It requires that members of service take into protective custody and remove to the hospital any individual that a member of service reasonably believes is an Emotionally Disturbed Person.

Sgt. Nikishin was the highest-ranking officer at the scene; therefore, he was responsible for the removal of § 87(2)(b) to the hospital.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
- Sergeant Elena Stojanovski has been a member of service for fourteen years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated.

§ 87(2)(g)

- Police Officer Michael Cangelosi has been a member of service for eight years and has been a subject in one CCRB complaint and two allegations, none of which were substantiated. § 87(2)(g)
- Sergeant Ivan Nikishin has been a member of service for eight years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Mateusz Hader has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Alexander Mengani has been a member of service for four years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Joseph Carlucci has been a member of service for thirteen years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Todd Craven has been a member of service for eighteen years and has been a subject in ten CCRB complaints and seventeen allegations, of which one was substantiated.
 - 2013302279 involved one substantiated allegation of force against PO Craven. The board recommended charges and the NYPD has not yet imposed discipline.
 - 200507947, 201806977, and 200615910 each involved one unsubstantiated allegation of force.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- As of February 11, 2020, results for a FOIL regarding a Notice of Claim sent to the NYC Comptroller's Office are pending.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 28).

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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